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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,547	01/11/2002	James W. Dominico	303/1/010	7338

7590

10/15/2003

Richard M. Goldberg
Suite 419
25 East Salem Street
Hackensack, NJ 07601

EXAMINER

PURVIS, SUE A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,547

Applicant(s)

DOMINICO, JAMES W.

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 9 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Drawings

1. New corrected drawings are required in this application because the informal drawings submitted are only sufficient for examination purposes. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 and 12-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Dewig et al. (US Patent No. 2003/0015105 A1).

Dewig discloses a synchronization apparatus and method for labeling and printing on a container. The device includes a print wheel (6) with print blankets (62) thereon and inking units (64). The containers (14) are supported on mandrels (58) about a support member. The structure of this portion is taken from US Patent No. 4,337,719 which is incorporated by reference in Dewig. (Page 2, ¶¶ 0022-0031.) US Patent No. 4,337,719 (hereafter 'vander Griendt') discloses

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the mandrels being supported on a wheel assembly to move the container into printing position.

In vander Griendt, the mandrels rotate when they are adjacent to the printing blanket by of cam surface which acts to drive the mandrels against the blanket surface. (Col. 4, lines 40-57 of

vander Griendt.) Dewig also includes a label applying device (12) for applying a label on the container where no ink is applied substantially simultaneously with the printing mechanism.

(Figure 3; Page 4, claims 1 and 2.) A control system couples the printer to the label applicator to coordinate the printing of the object such that the label is in a predetermined position relative to the printed image. The control system may include a processor coupled to the printer and a second processor coupled to the label applicator. (Page 1, ¶ 0007.)

Regarding claims 2 and 13, Figures 2 and 3 of Dewig show that the label applying device is positioned at the printing position.

Regarding claims 3, 5, 14, and 16, Dewig discloses an applicator head (36) with a pad (42) including a raised portion (52) which includes apertures (38). The apertures create a grid. (Figures 6 through 7.) Figure 2 of Dewig details the web transport assembly (13) including a peel plate (28) with a sharp edge. Retainer (34) is a Reverse Vacuum Blow (RVB) head 36 configured to use the same apertures (38) which alternately apply either vacuum pressure or positive pressure to label (20). (Page 2, ¶ 0028.)

Regarding claims 4 and 15, RVB head (36) is actuated by positive pressure feed (40) which is in communication with apertures (38) creating air jets. (Page 2, ¶ 0028.)

Regarding claim 6, the programmable limit switch (80) is coupled to both the printer (10) and the label applicator (12) to control the timing and application of the label and printing. (Page 3, ¶¶ 0034-0036.)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewig as applied to claims 1 and 12 above, and further in view of Southwell et al. (US Patent No. 5,232,540).

Dewig does not disclose an adjustment arrangement for moving at least a portion of the label applying device relative to the mandrel.

Southwell discloses an automatic labeling machine with a label application platen (75) which moves relative to the item being labeled. Pressurized air flows through platen to assist in the label application. (Figures 1, 4, 7A, and 7B.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an adjustment means whereby the platen in Dewig can be moved into closer proximity to the item to be labeled, because that would allow the application of the label to take place with more accuracy since the label will not need to be propelled as far. Furthermore, this would allow the device to be adapted for different sized containers.

6. Claims 8, 10, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewig in view of Southwell as applied to claims 7 and 11 above, and further in view of Ewert et al. (US Patent No. 6,006,808).

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Dewig in view of Southwell only discloses one adjustment mechanism.

Ewert discloses a second angular adjustment means in the form of springs (44). The angular adjustment allows the label applicator to label a container even if it is improperly aligned.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second adjustment in the system of Dewig in view of Southwell, because Ewert teaches that springs can be used in combination with a labeling platen to help ensure the item is labeled properly, even if the item is misaligned.

Allowable Subject Matter

7. Claims 9 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is an examiner's statement of reasons for allowance: These claims detail a linear adjustment mechanism including adjustment assemblies in three linear directions. There is no teaching or suggestion in the prior art for such a mechanism to be used in the device of Dewig.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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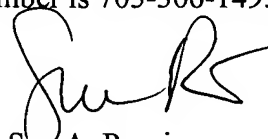
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gregoire (US Patent No. 5,996,664) disclose printing and applying labels on an item is know generally in the labeling art, but it supplies no motivation for using this teaching where round containers are labeled. Frey (US Patent No. 6, 083,342) discloses a container labeling system where the container is printed on and then a label is applied over that printing. This references shows that it has been known previously to both print and apply a label to a container, however there is no motivation for doing it at different locations. Butkevich et al. (US Patent No. 5, 120,392) discloses a container transport and manipulator for use with a label applier or screen printing applier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is 703-305-0507. The examiner can normally be reached on Monday through Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1495.



Sue A. Purvis
Examiner
Art Unit 1734

sp
October 1, 2003